

**THE COUNTY BULLETIN  
and Uniform Compliance Guidelines  
ISSUED BY THE STATE BOARD OF ACCOUNTS**

**Volume 312, Page 1**

**April 1997**

REMINDER OF ORDER OF BUSINESS

April

- 2 & 3    State Board of Accounts called meeting for County Recorders - Indianapolis.
- 15       Members of Tax Adjustment Board to be appointed before this date to serve one year in counties that have not abolished such board.  
(IC 6-1.1-29-2)
- Last day to make pension report and payment for first quarter by counties participating in Public Employees' Retirement Fund.
- 20       Last day to report and make payment of balance of State and County Income Tax withheld in March to Indiana Department of Revenue.
- Last day to file quarterly unemployment compensation reports with Indiana Employment Security Division.
- 30       Prepare inventory of Loans to Common, Congressional, Permanent Endowment and Cemetery Trust Funds.
- Last day to file quarterly report of Federal withholding tax with Director of Internal Revenue.

May

- 1        Last day for Township Trustee to report to County Auditor all unpaid claims, because of lack of funds, for losses caused by dogs.  
(IC 15-5-9-11)
- Prepare report of school funds to Auditor of State and make payment of principal and interest due to Treasurer of State on the Common and Permanent Endowment Funds, and pay the Treasurer of State all fines and forfeitures on hand April 30, 1997, as shown in this report. (IC 21-1-3-7)
- Prepare report of school funds (Form No. 6) and present the report to the Board of Commissioners for approval. After approval, mail one copy to State Department of Education, 229 State House, and one copy to Auditor of State, 240 State House.

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REMINDER OF ORDER OF BUSINESS  
(Continued)

May - Continued

- 10 First installment of property taxes due. (IC 6-1.1-22-9)
- Last day for filing applications for tax deductions to obtain deduction on 1997 payable 1998 taxes.  
(IC 6-1.1-12-2)
- 12 Last day to make report to Auditor of State of all unpaid claims against the dog fund not covered by  
distributions to townships in March 1997. (IC 15-5-9-11)
- 15 On or before May 15 is the last regular day for filing applications for tax exemption by Churches,  
Educational and Charitable organizations. (IC 6-1.1-11-3)
- Period of normal filing of personal property schedules ends. (IC 6-1.1-1-7)
- 20 Last day to report and make payment of State and County Income Tax withheld in April to Indiana  
Department of Revenue.
- 21,22,  
23 State Board of Accounts called meeting for County Auditors - Indianapolis
- 26 Memorial Day - Legal Holiday (IC 1-1-9-1)

June

- 1 On or before this date County Treasurer shall search the records to ascertain if person so certified  
is delinquent in payment of Property Taxes and certify to Auditor of State and state agencies the  
names of state employees owing delinquent taxes. (IC 6-1.1-22-16)
- County Auditor to prepare a list of persons owing delinquent taxes and believed to have money due  
from Auditor of State, State Highway Commission or any state institution or state school and furnish  
the list to those agencies on or before June 1.
- 15 On or before June 15 the County Auditor to give notice to tax exempt organizations which failed to  
file an application for exemption of property tax for which an exemption was effective for the  
previous year. (IC 6-1.1-11-5)
- 17,18,  
19 State Board of Accounts called meeting for Clerks of the Circuit Courts - Indianapolis

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**REMINDER OF ORDER OF BUSINESS**  
(Continued)

June - Continued

- 20     Last day to report and make payment of State and County Income tax withheld in May to Indiana Department of Revenue.

On or before this date complete settlement and distribution of taxes collected by the County Treasurer since the last settlement. Prepare settlement sheet to be submitted to Auditor of State for approval and make distribution of funds due local governmental units and the Treasurer of State by June 30. (IC 6-1.1-27-3)

- 30     County Treasurer to certify list of real property eligible for tax sale to County Auditor on or before July 1.

**PURDUE ROAD SCHOOL**

Board of County Commissioners

IC 8-17-7-7 states that it shall be the duty of each member of board of county commissioners to attend and be present at the Purdue Road School; and the county council of each county may appropriate sufficient funds to pay each county commissioner of his county a per diem for expenses for each day or part of a day the commissioner is in attendance at the Purdue Road School, and to pay such commissioner a sum for mileage, for each mile necessarily traveled to attend such school, equal to that sum per mile paid to state officers and employees.

County Highway Supervisor

IC 8-17-3-10 provides that, if a county highway supervisor, other than the county surveyor, shall be appointed by the board of county commissioners, such county highway supervisor shall be required to attend all the sessions of the annual road school during each and every year of his term. The expenses of the county highway supervisor, including the actual expenses of transportation to and from such school, together with the expense of lodging and tuition, shall be paid from the county highway maintenance fund of the county.

County Surveyor or County Engineer

IC 36-9-8-2 provides that the county surveyor, the county engineer, or any other person authorized by the county executive, of every county may attend all sessions of the annual road school, during each and every year of his incumbency. The expense of the county surveyor, county engineer, or any other person authorized by the county executive, including the actual expense of lodging and tuition, shall be paid from the county general fund. Upon the presentation of the proper receipts for the expenses incurred by such county surveyor, county engineer, or any other person authorized by the county executive, in attending such annual road school, and the approval thereof by the board of commissioners, the county auditor shall issue his warrant for the expense (IC 36-9-8-3).

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**HIGHWAY ENGINEER - STATE SUBSIDY**

IC 8-17-5-9 requires the county auditor to certify annually to the state auditor if the county employs a full-time county highway engineer. Such certification shall show the name and address of the county highway engineer and the serial number of his certificate of registration issued by the State Board of Registration for Professional Engineers.

Upon receipt of the annual certification, the state auditor shall distribute from the county highway engineer fund to the counties a grant-in-aid subsidy in the amount of \$20,000 which is to be applied toward the engineer's annual salary. If the county highway engineer is employed by the two (2) counties, acting jointly, the amount to be distributed to each such county unit shall be \$10,000 (IC 8-17-5-10).

We have received several inquiries concerning the "full-time" status of engineer who also serves as county surveyor. It is our position that if the full-time county highway engineer is also the county surveyor, the total annual salary for such individual must be at least \$40,000 per year before the county could qualify to received such subsidy. Also, if the amount fixed by council, in this situation, as compensation for services as highway engineer is greater than the amount set for serving as county surveyor, then the amount the person receives as compensation as engineer is in lieu of the amount set for the surveyor (IC 36-2-12-15).

**SURPLUS TAX - REFUND**

Surplus tax may only be refunded after being transferred by quietus from the Treasurer's Daily Balance of Cash and Depositories, line 53, to the Surplus Tax Fund. County treasurers are not authorized to make refunds from the "Other Sources" section of the Daily Balance of Cash and Depositories. Both the County Auditor and County Treasurer must approve all Surplus Tax Fund claims in accordance with IC 6-1.1-26-6.

We would not object to the transfer (by quietus) at more frequent intervals other than at settlement time. If your county chooses to make more frequent transfers, remember to complete the Surplus Tax Fund Ledger. Also, be sure to adjust the amounts reported on column 6 of the county Treasurer's Certificate of Tax Collections for surplus tax remitted prior to settlement.

Surplus tax should not be confused with a tax refund, as the handling of the two require different procedures. Tax refunds should be handled in accordance with Section P, Chapter 9, of the Accounting and Uniform Compliance Guideline Manual for County Auditors.

**STATE EMPLOYEES - GARNISHMENT OF WAGES TO PAY CHILD SUPPORT AND SMALL CLAIMS JUDGMENTS**

If the wages of a state employee are being garnished for two or more causes in the same court, the Auditor of State will be mailing only one warrant to the Clerk of the Circuit Court in payment of these multiple orders.

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**STATE EMPLOYEES - GARNISHMENT OF WAGES TO PAY CHILD SUPPORT AND SMALL CLAIMS JUDGMENTS - (Continued)**

The receipt issued by the Clerk of the Circuit Court shall list each cause individually. If the accounting system prohibits the Clerk of the Circuit Court from listing more than one cause on a single receipt multiple receipts shall be issued for the warrant received from the Auditor of State.

**SALARIES - CHANGES IN**

IC 36-2-5-13 requires the county council to approve any change, up or down, in salaries (as set out in the salary ordinance) set per IC 36-2-5-3. The process to change a salary would require application to the county council by the affected officer, department, commission or agency and a two-thirds (2/3) vote of the council. A two-thirds (2/3) vote would require five votes. This would apply to all county employees' salaries except elected county officers, whose compensation may not be changed in the year for which it is fixed.

Any raise in salary may require an additional appropriation to fund such a raise. The requirements for obtaining an additional appropriation would also have to be met in those circumstances.

**ASSESSORS - TOWNSHIP - BOND PREMIUM - PAYMENT**

The bond premium on the official bond of the township assessor should be paid from county funds and not from township funds.

IC 5-4-1-18 requires the township assessor to file an individual surety bond, blanket bond, or crime insurance policy in the amount fixed by the fiscal body at not less than eight thousand five hundred dollars (\$8,500). Statutes do not require the deputy assessor to execute a bond; however, such bond may be required by the elected township assessor. When so required, such bond must be recorded in the office of county recorder.

**ASSESSOR BOOKS AND SUPPLIES**

"Before the assessment date of each year, the county auditor shall deliver to each township assessor the proper assessment books and necessary blanks for the listing and assessment of personal property." (IC 6-1.1-3-5)

**COUNTY COUNCIL - TERM**

"The term of office of a member of the fiscal body is four (4) years beginning January 1 after his election and continuing until his successor is elected and qualified." (IC 36-2-3-3)

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**BOARD OF COUNTY COMMISSIONERS RECORD - AUDITOR'S DUTIES**

"The county auditor shall attend all meetings of and record in writing the official procedures of the executive. If a copy of the executive's proceedings has been signed and sealed by the auditor and introduced into evidence in court, that copy is presumed to be an accurate record of the executive's proceedings." (IC 36-2-2-11)

**CARE OF CEMETERIES BY COUNTY**

Affected Cemeteries

IC 23-14-26 applies to cemeteries that (1) are without funds or sources of funds for reasonable maintenance; (2) have suffered neglect and deterioration; and (3) may be the burial grounds for Indiana pioneer leaders as well as for veterans of every American war including the Revolutionary War.

Appointment and Term of Commission

The board of commissioners of a county may appoint a county cemetery commission of five (5) county residents. County cemetery commission members shall be appointed for a term of five (5) years, staggered by the board of county commissioners to permit an appointment or a reappointment of one (1) commissioner member per year.

Annual Tax Levy and Budget

The commission may request the levy of an annual tax not exceeding fifty cents (\$.50) on each one hundred dollars (\$100) of assessed valuation of property in the county for the purpose of restoring and maintaining the cemeteries described above that were established in the county before 1850.

The county cemetery commission shall present an annual plan and budget to the board of county commissioners and the county council for approval and shall make an annual report to those bodies.

Trusts for Cemetery Associations

IC 23-14-29 authorizes the following:

1. The board of commissioners of a county may receive from or on behalf of any cemetery corporation, church, association, or organization that has been dissolved or is to be dissolved a deposit of money to be held in trust under terms that are designated in writing. The interest on the money shall be used to keep in good condition any abandoned cemetery, any public incorporated cemetery, or any lots, monuments, mausoleums, vaults, or other burial structures in any cemetery. The board of commissioners may not expend more for this purpose than the interest earned from the loan or investment of the funds.

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**CARE OF CEMETERIES BY COUNTY (Continued)**

**Trusts for Cemetery Associations (Continued)**

2. All money received by the board of commissioners may be invested in compliance with IC 21-1-7-6.
3. The auditor is liable on his bond for any neglect or failure of duty with respect to this fund in the same manner as with respect to the school fund. The county is also liable for the preservation of the principal and the payment of the interest on the fund to the same extent that it is liable with respect to the principal and interest of the school fund. The fund may be deposited with the board of commissioners of the county in which the cemetery is located or in the county adjoining the nearest to that county.
4. The county auditor shall make distribution of the interest earned on any cemetery fund or funds on the last Monday of January of each year and to the following person or persons:
  - (1) To the trustee of the township in which an abandoned or unincorporated cemetery is located.
  - (2) To the trustee of the township lying on the east or south of the cemetery if the cemetery is located on a county boundary or on a township boundary.
  - (3) To the treasurer of the board of directors of an incorporated cemetery.
5. The township trustee and the treasurer of the board of directors shall each take a receipt or voucher for any money paid out, stating the amount paid out, the purpose for which it was expended, and the fund from which it came. The receipts and vouchers shall be filed with county auditor before January 2 each year and shall be presented to the board of commissioners for examination and approval at its January meeting.
6. If a cemetery is under the control of a duly organized board of directors of an incorporated cemetery or of the trustees or officers of the church, association, or other organization, the board of county commissioners may, on its own initiative or upon request of the proper officers of the cemetery, pay over or return to the treasurer of the cemetery any money deposited with the county, to be held and managed by the corporation, church, association, or organization in compliance with the terms of the bequest, legacy, or endowment, including applicable statutes.

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**CARE OF CEMETERIES BY COUNTY (Continued)**

Interest on Cemetery Funds

The Attorney General Held in Official Opinion No. 3, dated January 7, 1960, that the county must continue to comply with the requirements of IC 23-14-29-4 with regard to the payment of interest on cemetery funds deposited with the county under that act. This means that the county will continue to be liable for the payment of interest on such funds to the same extent as the common school funds (currently 4% per annum), whether or not the same are invested, as long as such funds are held in trust.

The provisions in IC 23-14-29-1 limiting the payment of interest to not more than the "interest earned from the loan or investment of such funds" will apply only to those funds deposited with the county on and after March 11, 1959.

**PROPERTY TAXES - INSTALLMENT PAYMENTS**

IC 6-1.1-7-7 and IC 6-1.1-22-9 states that county councils may adopt an ordinance to require a person to pay his property tax liability in one installment, due May 10, if the tax liability for a particular year is less than twenty-five dollars (\$25). Such ordinance payment should designate which property tax (real estate, personal, or mobile home) this requirement would apply to. A single ordinance requiring all three types to be paid May 10 would be proper.

**DELINQUENT TAX JUDGMENTS - DISTRIBUTION OF INTEREST**

The interest received upon payment of a delinquent personal property tax judgment should be distributed to the appropriate taxing district. Such interest would not be quietused to the County General Fund.

Form No. 18TJ (Rev. 1987), County Treasurer's Receipt For Personal Property Tax Judgment, should be used when receipting in such payments.

**COUNTY RECORDER'S NONCONFORMING FEE**

IC 36-2-11-16.5 is a new section added to the Indiana Code by the 1996 General Assembly which became effective January 1, 1997. This statute allows the county recorder to collect an additional fee for documents that do not conform to certain requirements.

The county recorder may receive for record an instrument or a document without collecting the additional fee if:

- 1) The instrument or document consists of at least one (1) individual page measuring not more than eight and one-half (8 1/2) inches by fourteen (14) inches that is not permanently bound and is not a continuous form;



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**COUNTY RECORDER'S NONCONFORMING FEE - (Continued)**

- 2) The instrument or document is on white paper of at least twenty (20) pound weight and has clean margins:
  - A) on the first and last pages of at least two (2) inches on top and bottom and one-half (1/2) inch on each side; and
  - B) on each additional page of at least one-half (1/2) inch on the top, bottom, and each side; and
- 3) The instrument or document is typewritten or computer generated in black ink in at least 10 point type.

For each document or instrument presented for recording that does not conform to the requirements, the recorder may attach additional pages, as needed, and collect one dollar (\$1) for each nonconforming page.

The fees collected for nonconforming pages shall be quietused to the county general fund.

**CLARIFICATION OF A FALL COUNTY AUDITOR QUESTION**

Due to a number of questions concerning question #14 in the January, 1997 County Bulletin, we felt clarification was warranted.

When we talk about disciplining employees in regards to the personnel policy, we are saying that employees subject to the personnel policy addressing vacation leave, sick leave, etc. would be required to follow that policy. When it comes to disciplining a sheriff's deputy with regards to job responsibilities, the sheriff and the merit board would be responsible to decide the consequences.

**COUNTY LAND VALUATION COMMISSION**

A county land valuation commission is established in each county, under IC 6-1.1-4-13.6, for the purpose of determining the value of commercial, industrial, and residential land (including farm homesites) in the county.

The county assessor is chairman of the commission.

The members of the commission are as follows:

- (1) The county assessor.
- (2) One (1) township assessor from the county, to be appointed by the county executive (as defined in IC 36-1-2-5).
- (3) One (1) township assessor from the county, to be appointed by all of the township assessors in the county by majority vote. In case of a tie vote, the county assessor will cast a vote to break that tie.
- (4) One (1) county resident who:
  - (A) holds a license under IC 25-34.1-3 as a salesperson or broker; and
  - (B) is appointed by the county executive (as defined in IC 36-1-2-5).

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**COUNTY LAND VALUATION COMMISSION - (Continued)**

- (5) Four (4) individuals who:
  - (A) are appointed by the county executive (as defined in IC 36-1-2-5); and
  - (B) each represent one (1) of the following four (4) kinds of land in the county:
    - (i) Agricultural
    - (ii) Commercial
    - (iii) Industrial
    - (iv) Residential
- (6) One (1) individual who:
  - (A) is appointed by the county executive (as defined in IC 36-1-2-5); and
  - (B) represents financial institutions in the county.

The term of each member of the commission begins November 1 two (2) years before the commencement of the general reassessment under IC 6-1.1-4-4 and ends January 1 of the year the general reassessment commences under IC 6-1.1-4-4. The appointing authority may fill any vacancy for the remainder of the vacated term.

The commission shall determine the values of all classes of commercial, industrial, and residential land (including farm homesites) in the county using guidelines determined by the state board of tax commissioners. Before the board finally determines values under this section, the commission shall hold a public hearing in the county concerning those values. The commission shall give notice of the hearing in accordance with IC 5-3-1 and shall hold the hearing after March 31 and before December 1 of the year preceding the year in which the general reassessment under IC 6-1.1-4-4 becomes effective. Before January 1 of the year that the general reassessment commences under IC 6-1.1-4-4, the commission shall submit the values it finally determines to the state board.

The state board shall review the values submitted and may make any modifications it considers necessary to provide uniformity and equality. If the commission fails to submit land values to the state board before January 1 of the year before the date the general reassessment under IC 6-1.1-4-4 becomes effective, the state board shall determine the values.

The state board shall give notice to the county and township assessors of its decision on the values. Within twenty (20) days after that notice, the county assessor or any township assessor in the county may appeal the values to the state board. The state board shall hold a hearing on the appeal in the county. The state board shall give notice of the hearing under IC 5-3-1.

The county assessor shall notify all township assessors in the county of the values as determined by the commission and as modified by the state board on review or on appeal. Township assessors shall use the values as determined by the commission and modified by the state board in making assessments.

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**COMPENSATORY TIME OFF UNDER FAIR LABOR STANDARDS ACT**

We have included in this bulletin an article we received from Fair Labor Standards and who requested we include it in our bulletin.

**PURCHASE OF COMPUTER HARDWARE AND SOFTWARE**

The purchase of a computer system (hardware and software) is subject to the Public Purchases Law (IC 36-1-9) unless the following criteria apply:

1. If the software purchase is the initial purchase or lease of software and that software:
  - (A) May only be procured directly from the software's developer; and
  - (B) Is the only available software application that will satisfy the political subdivision's or agency's demonstrated need. (IC 36-1-9-1(h))
2. The purchase of additional hardware or software that will supplement an existing mainframe computer system or mini-mainframe computer system of a political subdivision or an agency if;
  - (A) The existing computer system was purchased through a competitive bidding procedure;
  - (B) The additional hardware or software:
    - (1) May only be procured directly from the developer or manufacturer of the software or hardware; and
    - (2) Is the only software or hardware that will satisfy the demonstrated needs of the political subdivision or agency; and
  - (C) The existence of both conditions described in subdivision (B) is recorded in the minutes of the legislative body of the political subdivision or governing body of the agency, if any. (IC 36-1-9-1(i))

The exemption from the requirements of IC 36-1-9-3 et. seq. that is provided in IC 36-1-9-1(i) does not apply to the purchase of peripheral hardware which includes printers and terminals. (IC 36-1-9-1(j)).

### Use of Compensatory Time Off Under the Fair Labor Standards Act

The Fair Labor Standards Act (FLSA) is a federal law that sets standards for minimum wage, overtime, and child labor. Under Sec 7(o), public sector employers may provide compensatory time off in lieu of monetary overtime compensation. The compensatory time off must be at the rate of not less than 1 and ½ hours for each overtime hour worked.

As a condition for use of compensatory time off in lieu of overtime payment in cash, an agreement or understanding must be reached prior to performance of the work. Such an agreement may involve a collective bargaining agreement, a memorandum of understanding, or any other type of agreement between the public agency and the employees' representative. (If the employees do not have a representative, then the agreement must be between the public agency and the individual employee.) The agreement may contain provisions that address the preservation, use, or cashing out of compensatory time, as long as they are consistent with Sec. 7(o).

As an example, if an agreement specifically provides that an employee must use accrued compensatory time prior to the use of vacation leave, then this policy would be within the FLSA, assuming that employees have knowingly and voluntarily agreed to such a provision freely and without coercion or pressure. On the other hand, if the compensatory agreement did not specifically address that issue, then the employer could not require an employee to take their accrued compensatory time prior to vacation leave.

Here's a different type of example. An agreement states that requests for compensatory time off have to be submitted with adequate advance notice and that management will approve them based on scheduling needs, allowing only one employee off per shift. Sec 7(o)(5) of FLSA says that requests for use of compensatory time off will be permitted within a "reasonable period", if such use does not "unduly disrupt" the operations of the agency. In this example, the agreement would be inconsistent with the FLSA since it would allow for the denial of a request for reasons other than unduly disrupting the operations of the agency.

Remember, there are ceilings on how much FLSA compensatory time off an employee may accumulate:

480 hours of compensatory time off (representing 320 overtime hours worked) for employees engaged in public safety, emergency response, or seasonal activity

240 hours of compensatory time off (representing 160 overtime hours worked) for all other employees

When employees reach these ceilings, any additional overtime that is worked must be paid. FLSA compensatory time off stays on the books until the employee uses the time or until it is paid out. Employees cannot "use or lose" compensatory time off.

For answers to other questions on the Fair Labor Standards Act or the Family and Medical Leave Act, contact your nearest U.S. Dept of Labor, Wage & Hour office. Indianapolis 317/226-6801, South Bend 219-236-8331.

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**AMOUNTS AUTHORIZED TO BE RECEIVED BY SHERIFFS FOR BOARD OF PRISONERS**

By authority of IC 36-8-10-7, I, Charles Johnson, III, C.P.A., State Examiner of the State Board of Accounts, do hereby fix the exact amount per meal which the sheriff of each county in the State of Indiana, having a population of less than 250,000 according to the last preceding United States census, shall be entitled to receive for feeding prisoners legally in his charge, including Federal prisoners, for a period of one year, beginning April 15, 1997. Amounts received by the sheriff from the Federal government for board and care of Federal prisoners shall be paid into the County General Fund.

In determining and fixing the amount per meal, the use of wholesome food in quantities and varieties necessary for the preservation of the health of the prisoners is contemplated. All expenses related to preparing and serving meals, except for the costs of food, shall be borne by the county.

The amounts fixed are for meals actually served such prisoners during each respective month. Not more than three meals at county expense are to be served to any one prisoner in any one day.

The term "month" shall mean a period of time beginning April 15, 1997, and thereafter ending on the fourteenth (14th) day of each succeeding month. Claims for meals for the month beginning December 15 will be paid from the appropriation for the succeeding year.

For number of meals served during a period of one month, per meal:

In counties having a population of less than 20,000 .....	\$1.74
In counties having a population of 20,001 to 40,000 .....	1.69
In counties having a population of 40,001 to 41,499 .....	1.63
In counties having a population of 41,500 to 65,500 .....	1.44
In counties having a population of 65,501 to 100,000 .....	1.23
In counties having a population of 100,001 to 200,000 .....	1.10
In counties having a population of 200,001 or over .....	1.03

IC 36-8-10-7 states that the state examiner shall increase the amount per meal by a percentage that does not exceed the percentage of increase in the United States Department of Labor Consumer Price Index during the year preceding the year in which an increase is established. The percent of increase in the Consumer Price Index from 1995 to 1996 was 1%. The increases shown in the above schedule are the maximum amounts allowed by IC 36-8-10-7.

The following counties will not be allowed the amounts authorized above:

Allen   Lake   Marion   Vanderburgh

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Charles Johnson, III, C.P.A.  
State Examiner

Dated this 15th day of April, 1997  
BAH/RJH:dsk